

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition No.7723 of 2004

Office Notes, Office Court or Judge's Order
Memorandum of Coram
appearance, Court's
Orders & Directors
and Registrar's Order

Mr.G.H.Keluskar for petitioner

CORAM; A.P.SHAH J

DATED 20.9.2005

P.C.

. Heard the learned counsel for the petitioner. Perused the record including the judgment of the lower courts. The petitioner landlord has claimed possession on the ground of carrying out permanent addition and alteration in the suit premises. The allegation is that the tenant demolished the eastern wall of the premises which was in good condition and reconstructed it with bricks and mortar. This was done without taking written permission from the landlord and, therefore, the tenant is liable

to be evicted under section 13(1)(b) of the Bombay Rent Act.

. The lower appellate Court on appreciation of material placed on record held that the ground under section 13(1)(b) is wholly unsustainable. It appears that cracks had developed in the eastern wall and the foundation had sunk and the wall was likely to collapse. It appears that the tenant called upon the landlord to carry out repair under section 23 but he failed to do so. Since the landlord failed in his duty to carry out the necessary repair, tenant had no option but to demolish the wall which was in a dilapidated condition and reconstruct it. In the circumstances it is not possible to accept the case of the landlord that the tenant has effected permanent construction in the premises. Petition is dismissed.